

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

*In re* Flint Water Cases

Judith E. Levy

United States District Judge

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This Order Relates To:

*Bellwether I* Cases

Case No. 17-10164

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**OPINION AND ORDER DENYING DEFENDANTS LOCKWOOD,  
ANDREWS & NEWNAM, INC. AND LOCKWOOD, ANDREWS &  
NEWNAM, P.C.’S MOTION IN LIMINE TO EXCLUDE  
REFERENCES TO POISONED WATER [517]**

Before the Court is a motion *in limine* by Lockwood, Andrews & Newnam, Inc., and Lockwood, Andrews & Newnam, P.C.’s (collectively “LAN”) to exclude all references to “poisoned” water. (ECF No. 517).

LAN seeks an order preventing Plaintiffs from referring to Flint's drinking water as "poisoned." According to LAN, referring to the drinking water as "poisoned" would be unduly prejudicial and inflammatory under Federal Rule of Evidence 403.

This is a case about the alleged lead poisoning of four children. Prohibiting the word "poisoned" in a trial about lead poisoning is neither feasible nor mandated by the Rules of Evidence. "Lead poisoning" is the standard term for a dangerous exposure to lead. *See, e.g.,* World Health Organization, "Lead Poisoning" (Oct. 11, 2021) (<https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health>); Centers for Disease Control and Prevention, "Lead Poisoning Prevention" (Jan. 13, 2022) (<https://www.cdc.gov/nceh/lead/prevention/default.htm>). Accordingly, the use of this term is not inappropriate and does not suggest a decision on an impermissible basis. *Cf. United States v. Bonds*, 12 F.3d 540, 567 (6th Cir. 1993).

This ruling should not be interpreted to permit use of the verb "to poison" in ways intended to suggest that LAN or VNA intentionally injured Plaintiffs. While there is evidence that both Flint's drinking

water and these four Plaintiffs were “lead poisoned,” (i.e., exposed to dangerous quantities of the toxin lead) there is no evidence that LAN or VNA engaged in intentional poisoning. Thus, while Plaintiffs may argue that LAN’s negligence caused their lead poisoning, and that the water itself was poisoned with lead, they may not argue that LAN poisoned them.

For the reasons set forth above, LAN’s motion to exclude references to “poisoned” water is DENIED.

IT IS SO ORDERED,

Dated: January 31, 2022  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 31, 2022.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager